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Select Committee on the *Hudson's Bay Company*.

1857.

PAPERS.

EXTRACT from the REPORT from the Committee appointed to Inquire into the State and Condition of the Countries adjoining to *Hudson's Bay*, and of the Trade carried on there. 1749.

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23 *February* 1857.

[*Great inconvenience having arisen from the Publication of Minutes of Evidence taken before Committees, and of Papers, &c. laid before them, it is particularly requested that Members receiving such Minutes and Papers will be careful that they are confined to the object for which they are printed, the special use of the Members of such Committees.*]

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Select Committee on the *Hudson's Bay Company.*

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P A P E R S.

EXTRACT from the REPORT from the Committee appointed to Inquire into the State and Condition of the Countries adjoining to *Hudson's Bay*, and of the Trade carried on there. 1749.

To the Right Honourable the Lords of a Committee of His Majesty's most Honourable Privy Council. Appendix, No.

May it please Your Lordships,

IN humble obedience to your Lordships' Order in Council of the 4th of February last, representing that, by an Order in Council, bearing date the 26th day of January last, there was referred to your Lordships the humble petition of Arthur Dobbs, esq., and the rest of the Committee appointed by the subscribers for finding out a passage to the Western and Southern Ocean of America, for themselves and the other adventurers; and that your Lordships, having taken the said petition into consideration, were pleased to refer the same to us, to consider thereof, and report our opinion thereupon to your Lordships.

Which petition sets forth, that the petitioners, in the year 1746, did, at their own costs and charges, fit out two ships upon an expedition in search of the north-west passage to the Western and Southern Ocean of America, in order to extend the trade, and increase the wealth and power of Great Britain, by finding out new countries and nations to trade with, as well in the great north-western continent of America, beyond Hudson's Bay, as in countries still farther distant, and hitherto unknown to the Europeans; and also to many large and populous islands in that great Western Ocean.

That the petitioners, by means of the said expedition, have made several discoveries of bays, inlets, and coasts, before unknown, and have a reasonable prospect of finding a passage to the Southern Ocean, by sea, although the discovery may not be perfected without repeated trials, upon account of the difficulties and danger of searching different unknown inlets and straits, and failing through new seas, and of procuring men of resolution, capacity, and integrity, to pursue it effectually.

That the petitioners find that the reward of 20,000 *l.*, given by Parliament, is not adequate to the expense the adventurers must be at to perfect the discovery, they having already expended above half that sum in their late expedition.

That the petitioners find that, upon a former attempt, his Majesty's predecessor King Charles the Second, as a suitable encouragement, granted a Royal Charter to the Governor and Company of Adventurers in England trading to Hudson's Bay, making them a body corporate for ever, upon their petition, setting forth that they had, at their own proper costs and charges, made an expedition to discover a new passage into the South Sea, and for finding some trade of furs, mines, and other commodities; and gave them the sole property of all the lands they should discover, together with an exclusive trade to all the countries within Hudson's Straits, not in possession of any of his subjects or of any other Christian power, with the royalties of mines, minerals, gems, and royal fish, to enable them to find out the passage, extend the trade, and to plant the countries they should discover, paying two elks and two black beavers, whenever and as often as his Majesty and his successors should enter their territories; granting to them the greatest privileges as lords proprietors, saving only their faith and allegiance to the Crown of Great Britain.

The petitioners beg leave to observe, that the said Company have not since effectually, or in earnest, searched for the said passage, but have rather endeavoured to conceal the same, and to obstruct the discovery thereof by others; nor have they made any new discovery either upon the coast, or in the inland countries adjoining to Hudson's Bay, since the grant of their charter; nor have they taken possession of or occupied any of the lands granted to them, or extended their trade into the inland parts of the adjoining continent; nor made any plantations or settlements, except four factories, and one small trading-house, in all which they have maintained, in time of peace, about 120 persons, servants to the Company; nor have they allowed any other of His Majesty's subjects to plant, settle, or trade in any of

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the countries adjoining to the Bay granted to them by their charter; yet have connived at or allowed the French to encroach, settle, and trade, within their limits, on the south side of the Bay, to the great detriment and loss of Great Britain.

That the petitioners, being desirous to pursue the discovery of the passage to the Southern Ocean of America by land or by water, will engage not only to prosecute the same until it be thoroughly discovered as far as practicable, but also to settle and improve the land in all the countries on that northern continent, by making alliances with, and civilising the natives, and incorporating with them, and by that means lay a foundation for their becoming Christians, and industrious subjects of his Majesty; and also extend the British trade into the heart of that northern continent around the Bay, and into such countries as they may discover beyond it in the Western Ocean, and to use their utmost endeavours to prevent the French encroachments upon the British rights and trade in that continent.

In order therefore to enable the petitioners to prosecute and bring to perfection so valuable a discovery, and to civilise the natives and settle the lands without loss of time; and that the trade and settlement of such extensive countries may not be longer delayed, or perhaps for ever lost to his Majesty and his successors, by the encroachments of the French,—

The petitioners most humbly pray, that His Majesty would be graciously pleased to incorporate the petitioners and the other subscribers for finding out the said passage, or such of them and such other persons as they shall engage in the said undertaking, and their successors for ever, and grant to them the property of all the lands they shall discover, settle, and plant, in a limited time, in the northern continent of America adjoining to Hudson's Bay and Straits, not already occupied and settled by the present Company of Adventurers trading to Hudson's Bay, with the like privileges and royalties as were granted to the said Company: and that His Majesty would be pleased to grant unto the petitioners (during the infancy of their settlements) an exclusive trade, for such a term of years as may be granted to discoverers of new arts and trade, to all such countries into which they shall extend their trade by land or by water, not already granted by Act of Parliament to other companies, reserving to the present Company of Adventurers trading to Hudson's Bay all the forts, factories, and settlements they at present occupy and possess, with a reasonable district round each of their possessions and factories; or that his Majesty would be pleased to grant the petitioners such other relief and encouragement as to his Majesty in his great wisdom should seem meet.

We have taken the same into consideration, and have been attended by Counsel both in behalf of the petitioners, and the Hudson's Bay Company, who oppose the petition as it interferes with their charter.

The petitioners insisted on two general things: that the Company's charter was either void in its original creation, or became forfeited by the Company's conduct under it.

That the petitioners have, by their late attempts to discover the north-west passage and navigation in those parts, merited the favour petitioned for.

As to the first, the petitioners endeavoured to show, that the grant of the country and territories included in the Company's charter was void for the uncertainty of its extent, being bounded by no limits of mountains, rivers, seas, latitude or longitude, and that the grant of the exclusive trade within such limits as there were, was a monopoly, and void on that account.

With respect to both these, considering how long the Company have enjoyed and acted under this charter, without interruption or encroachment, we cannot think it advisable for His Majesty to make any express or implied declaration against the validity of it, till there has been some judgment of a court of justice to warrant it; and the rather, because, if the charter is void in either respect, there is nothing to hinder the petitioners from exercising the same trade which the Company now carries on; and the petitioners own grant, if obtained, will itself be liable, in a great degree, to the same objection.

As to the supposed forfeiture of the Company's charter by nonuser or abuser, the charge upon that head is of several sorts, viz.: That they have not discovered, nor sufficiently attempted to discover, the north-west passage into the South Seas or Western Ocean:

That they have not extended their settlements through the limits of their charter:

That they have designedly confined their trade to a very narrow compass; and have for that purpose abused the Indians, neglected their own forts, ill-treated their own servants, and encouraged the French.

But on consideration of all the evidence laid before us, by many affidavits on both sides (herewith enclosed), we think these charges are either not sufficiently supported in point of fact, or in a great measure accounted for from the nature or circumstances of the case.

As to the petitioners' merit, it consists in the late attempts made to discover the same passage; which, however as yet unsuccessful in the main point, may probably be of use hereafter in that discovery, if it should ever be made, or in opening some trade or other, if any should hereafter be found practicable; and have certainly lost the petitioners considerable sums of money.

And

But as the grant proposed is not necessary in order to prosecute any future attempt of the like kind, and the charter of the Hudson's Bay Company does not prohibit the petitioners from the use of any of the ports, rivers, or seas included in their charter, or deprive them of the protection of the present settlements there; we humbly submit to your Lordships consideration, whether it will be proper at present to grant a charter to the petitioners, which must necessarily break in upon that of the Hudson's Bay Company, and may occasion great confusion by the interfering interest of two companies setting up the same trade against each other in the same parts, and under like exclusive charters: All which is humbly submitted to your Lordships' consideration.

D. Ryder.
W. Murray.

10 August 1748.

(True copy.)

W. Sharpe.